

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOSHUA CASEY BRANDERHORST,

Plaintiff,

v.

CASEY NEWTON,

Defendant.

Case No. 3:23-cv-1198-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on July 25, 2024. Judge Russo recommended that this Court grant Defendant's motion for summary judgment.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to

require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff, representing himself, timely filed an objection. Plaintiff argues that his private investigator, lawyer, and eye doctor would testify on his behalf at trial. The Court has reviewed *de novo* Judge Russo’s Findings and Recommendation, as well as Plaintiff’s objections and Defendant’s response. The Court agrees with Judge Russo’s reasoning and adopts the Findings and Recommendation.

The Court ADOPTS Judge Russo’s Findings and Recommendation, ECF 42. The Court grants Defendant’s motion for summary judgment, ECF 25, and terminates this case.

IT IS SO ORDERED.

DATED this 15th day of October, 2024.

/s/ Michael H. Simon
 Michael H. Simon
 United States District Judge